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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Local Exchange Carriers' Rates,	)	
Terms, and Condition for	)	CC Docket No. 94-97
Expanded Interconnection Through	)	Phase I
Virtual Collocation for Special Access	)	
and Switched Transport		

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REPLY TO COMMENTS

None of the three parties that filed comments on Bell Atlantic's[1] Petition[2] addresses the merits of the Petition. Bell Atlantic based its request for an interim waiver on the fact that the Commission's prescription of overhead loadings for virtual collocation no longer meets its policy underpinning, because of the changes in the comparable access tariffs in the past two years and because the new collocation tariff introduces service options that were not available at the time of the prescription. The new collocation tariff tracks the rate structure in the 1996 access tariff, not the structure of the old 1994 tariff on which the prescription was based, and the prescription is, therefore, invalid. Most of the rates in the new tariff are lower than those in the existing virtual

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[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

[2] Petition for Interim Waiver (filed May 31, 1996) ("Petition").

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collocation tariff, and none are higher. Key non-recurring charges have been reduced to $1.00 or less, and complementary term pricing plan arrangements are being introduced.

As Bell Atlantic has shown repeatedly, the Commission's policy in prescribing overhead loadings was to bring those overheads in line with comparable access tariffs. The Commission held that "LECs may not recover a greater share of overhead costs in their rates for virtual collocation services than they recover in rates for 'comparable services,' absent justification."[3] Accordingly, it prescribed maximum overheads that tracked those of the access tariffs that were then in effect. The access tariffs have changed twice since the Commission's prescription. Both Bell Atlantic's pending Motion to Vacate Prescription (filed Sept. 1, 1995) and the instant Petition are predicated on the need to bring the Commission's practice into line with its underlying policy. That policy requires Bell Atlantic to base the overhead loading factors in collocation tariffs on the "share of overhead costs" currently included in rates "for comparable services."

In addition, Bell Atlantic's pending collocation tariff introduces term pricing arrangements. As a result, the overheads should be adjusted to reflect the new set of "comparable" services by setting overhead loadings at levels that are no higher than the

[3] ***Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport, Report and Order***, 10 FCC Rcd 6375, 6378, ¶ 5 (1995).

same term plans in the access tariff.[4] The earlier prescription was in connection with a collocation tariff that included only month-to-month pricing plans.

Because the waiver request is intended solely to bring the overhead loadings to levels which are consistent with the Commission's policy, the issues raised in the comments are irrelevant and extraneous. TCG, for example, claims that the waiver should be denied primarily because the pending revised tariff "revises prices for virtual collocation (generally upward)" and is, therefore, excessive.[5] If TCG had bothered to compare the existing and pending virtual collocation tariffs, it would have found that most rates in the pending tariff are lower, and none higher, than the existing tariff. Non-recurring charges, which would be imposed on conversions from virtual to physical arrangements, drop from as much as $864 to a mere $1.00, to track the comparable access rates.

MCI attempts to reinterpret the Commission's overhead loading policy to force Bell Atlantic to apply the obsolete 1994 loading factors in perpetuity.[6] The Commission's policy, as quoted above, contemplates that overhead loadings should be no higher than those for <u>comparable services</u> in the <u>contemporaneous</u> access tariffs, not a

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[4] The overhead loadings in the collocation tariff are based on those in Bell Atlantic's 1996 annual access tariff, Transmittal 867. That tariff will become effective on July 1, 1996, after a one-day suspension. ***See 1996 Annual Access Tariff Filings***, DA 96-1022 (rel. June 24, 1996). The collocation tariff has a scheduled effective date of July 19, 1996.

[5] Teleport Communications Group, Inc. ("TCG"), Opposition to Petition for Interim Waiver at 1.

[6] MCI Comments at 5-7.

different mix of services in defunct filings. Moreover, grant of the waiver will allow Bell Atlantic to track the reduced non-recurring charges in the current access tariff. MCI has argued elsewhere that the price of converting from virtual to physical collocation should be priced at $1.00.[7] Denial of the waiver would deprive MCI of the non-recurring rate that it advocates, yet MCI apparently feels compelled to oppose.

MFS, which has repeatedly asked Bell Atlantic to offer term pricing plans, also opposes the waiver that will enable Bell Atlantic to provide such plans. MFS simply repeats the failed arguments that it used to oppose the Motion to Vacate Prescription, ***i.e.***, that Bell Atlantic is obligated to provide some sort of detailed cost information in support of its waiver Petition.[8] Bell Atlantic has shown the calculation of comparable overhead loadings in the access tariff[9] and it has fully supported the rates filed in the tariff.[10] There is no requirement under the Commission's Rules to file additional cost justification.

Bell Atlantic's new collocation tariff reflects current costs, based upon an updated cost study, and tracks the rate structure of the 1996 access charge tariff filing, including the substantial reductions in non-recurring charges that parties purport to want.

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[7] ***Implementation of the Local Competition Provisions of the Telecommunications Act of 1996***, CC Docket No. 96-98, MCI Comments at 56 (filed May 16, 1996).

[8] Comments of MFS Communications Company, Inc. to Bell Atlantic's Petition for Interim Waiver at 3-4.

[9] Transmittal No. 883, Description and Justification at Workpaper 5-10.

[10] ***Id.*** at Sections 3-5.

It introduces term pricing plans in response to collocators' requests. It reduces many of the recurring of the charges for virtual collocation services and does not increase any such rates.

In order to track the new tariff structure in a compensatory tariff, however, Bell Atlantic must apply overhead loading factors from the current access tariff. Some of those factors are higher than those in the 1994 access tariff, but none of the virtual collocation rates has increased, and many have dropped. There is no justification for requiring Bell Atlantic to mix long-defunct overhead loadings with current rate structures. Given that the new tariff gives collocators what they claim to be seeking and reduces many of their rates, applying the old overheads and rate structure would not be in their interest, either.

Accordingly, the Commission should promptly grant Bell Atlantic's Petition for Interim Waiver.

Respectfully Submitted,

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June 25, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June. 1996 a copy of the foregoing "Reply to Comments" was served on the parties on the attached list.

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